

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

CASE NO. 2:19-cr-20626-NGE-DRG

v.

EMANUELE PALMA,

Defendant

_____/

JOINT MOTION FOR A REVISED TRIAL SCHEDULE

The United States of America did not obtain and produce all documents from the Securities and Exchange Commission (“SEC”); Department of Justice, Environment and Natural Resources Divisions, Environmental Enforcement Section (“DOJ ENRD - Civil”); the Environmental Protection Agency (“EPA”); and the California Air Resources Board (“CARB”) covered by the Court’s November 17, 2020 Order (the “Court Ordered Materials”) by March 15, 2021, as required by the Court’s Scheduling Order entered on January 19, 2021 (DE 63). On March 15, 2021, the government produced approximately 2,439 documents the government obtained from the above entities, and notified the defendant in the cover letter accompanying the March 15, 2021 production that

“these agencies are still collecting and producing responsive documents, and, therefore we anticipate making further productions of discoverable materials to you as we receive them.” In response to inquiries from counsel to Mr. Palma about the government’s failure to produce the required material, on March 29, 2021, the government informed the defendant that by April 12, 2021, the government would be producing approximately 900,000 additional documents pursuant to the Court’s Opinion and Order dated November 17, 2020.

The parties having conferred, Mr. Palma will not oppose, subject to the Court’s judgment, the entry of a revised Scheduling Order requiring the production of the non-privileged EPA materials required by the November 17, 2020 Order by April 12, 2021, and the production of the (1) remaining CARB materials and (2) EPA materials that require review for potential privilege by May 17, 2021.

In light of the volume of additional documents that the government plans to produce, Mr. Palma reserves the right to seek modifications to this Scheduling Order once those additional materials have been produced and reviewed.

Accordingly, the United States of America, through its attorneys of record, and defendant Emanuele Palma, through his attorneys of record subject to the Court’s judgment, move the Court: to so-order the revised pretrial deadlines

described in the accompanying Stipulation, related to the Court Ordered
Materials.

Dated: April 6, 2021

s/Henry P. Van Dyck
HENRY P. VAN DYCK
Principal Assistant Chief
U.S. Department of Justice
Criminal Division, Fraud Section

s/Timothy J. Wyse
TIMOTHY J. WYSE
Assistant United States Attorney
Eastern District of Michigan

s/Todd W. Gleason
TODD W. GLEASON
Senior Trial Attorney
U.S. Department of Justice
Environmental Crimes Section
Environmental and Natural Resources Division

s/Greg D. Andres
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GREG D. ANDRES
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Davis Polk & Wardwell
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s/Kenneth M. Mogill
KENNETH M. MOGILL
Mogill, Posner & Cohen

**UNITED STATES DISTRICT COURT
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Plaintiff,

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v.

EMANUELE PALMA,

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STIPULATION REGARDING TRIAL SCHEDULE

IT IS HEREBY STIPULATED AND AGREED, by and between
defendant Emanuele Palma and his attorneys of record, and the United States of
America, through its attorneys of record, as follows:

1. The parties have agreed to a trial date of **October 26, 2021**.
2. The following additional deadlines shall apply:
 - **Court Ordered *Brady* and Rule 16 Material:** The government shall provide the remaining materials required by the Court’s Opinion and Order dated November 17, 2020 (the “Court Ordered Materials”) related to the U.S. Securities and Exchange Commission (“SEC”) and

Environmental Enforcement Section of the Department of Justice (“DOJ-ENRD - Civil”) by **April 12, 2021**. The government shall provide the remaining Court Ordered Materials related to the Environmental Protection Agency (“EPA”) that are not subject to an additional privilege review by **April 12, 2021**. The government shall provide all remaining non-privileged Court Ordered Materials related to the EPA and the California Air Resources Board (“CARB”), as well as privilege logs for the EPA and CARB materials, by **May 17, 2021**. If the government is unable to meet these deadlines for any reason the government will raise any issues first with the defendant and if necessary the Court.

- **Government’s Preliminary and Final Witness/Exhibit Lists:** The government shall provide its preliminary exhibit list by **April 12, 2021**, and its preliminary witness list by **May 17, 2021**. The government’s final exhibit and witness lists must be provided on or before **October 4, 2021**.
- **Proposed Jury Selection Process:** The parties shall file a joint motion with respect to the parties’ position for suggested jury selection procedures by **May 17, 2021**.

- **Rule 404(b) Evidence:** The government shall provide any notice under Federal Rule of Evidence 404(b) by **May 17, 2021**.
- **Exchange of Jury Instructions:** The parties shall exchange draft jury instructions by **July 12, 2021**.
- **Discovery:** The parties should produce all additional discovery in its possession, pursuant to Rule 16 to include the defendant's reciprocal discovery by **July 12, 2021**, and all subsequent discovery should be produced subject to any objections for timeliness and prejudice.
- **Defendant's Preliminary Exhibit and Witness Lists:** The defendant shall provide his preliminary exhibit and witness lists by **July 12, 2021**.
- **Translation-Related Objections:** The defendant shall provide to the government a list of any translation-related objections to government exhibits and proposed alternative translations by **July 12, 2021**.
- **Motions in Limine:** The parties shall file any motions in limine by **August 2, 2021**.
- **Submission of Jury Instructions:** The parties will submit proposed jury instructions to the Court by **August 9, 2021**.

- **Jury Questionnaire:** The parties shall file a proposed supplemental jury questionnaire and proposed voir dire questions by **August 9, 2021.**
- **Final Pretrial Conference:** The final pretrial conference shall be held three weeks before trial, on **October 5, 2021, at 10:00 a.m.,** which is also the plea cut-off date.

In light of the government's representation that it will produce approximately 900,000 additional documents in response to the Court's Opinion and Order dated November 17, 2020, Mr. Palma reserves the right to seek a modification of this Order once he has obtained and reviewed the materials produced in response to the Court's Opinion and Order dated November 17, 2020.

IT IS SO STIPULATED.

s/Henry P. Van Dyck
HENRY P. VAN DYCK
Principal Assistant Chief
U.S. Department of Justice
Criminal Division, Fraud Section

s/Timothy J. Wyse
TIMOTHY J. WYSE
Assistant United States Attorney
Eastern District of Michigan

s/Todd W. Gleason
TODD W. GLEASON
Senior Trial Attorney
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s/Greg D. Andres
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NEIL H. MACBRIDE
PAUL J. NATHANSON
Davis Polk & Wardwell
LLP

s/Kenneth M. Mogill
KENNETH M. MOGILL
Mogill, Posner & Cohen

Dated: April 7, 2021

IT IS SO ORDERED.

Dated: April 7, 2021

s Nancy G. Edmunds
HONORABLE NANCY G. EDMUNDS
UNITED STATES DISTRICT JUDGE